HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.26523 of 2006

Date: 20th December, 2006

Between :-

Ch. Malla Reddy .. Petitioner

And

The Mancherial Municipality,
Rep by its Commissioner,
Mancherial Town, Adilabad District
And another ..
Respondents

HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.26523 of 2006

ORDER:-

The matter is coming up for *admission.*

2. Sri Polisetti Radha Krishna, the learned Standing Counsel takes notice on behalf of R.1. Heard Sri K.V. Bhanu Prasad, the learned Counsel representing the petitioner.

3. The Writ Petition is filed for a Writ of Mandamus declaring the action of 1st respondent in issuing the impugned order bearing No.B48/TP/2006, dated 11-12-2006 with the caption 'notice' on the basis of the representation of the 2nd respondent as illegal, arbitrary, intentional, malafide, opposed to principles of natural justice and without jurisdiction and consequently set-aside the same and pass such other suitable orders.

4. Several factual details are narrated relating to the ownership of the property in question, the possession and enjoyment, and application made for the building permission, and the granting of permission and other details. It is also stated that when the 2nd respondent herein and others tried to interfere with the possession of the petitioner, the petitioner filed a suit O.S.No.115 of 2006 on the file of Junior Civil Judge, Mancherial and obtained *ex parte* injunction in I.A.No.209 of 2006 on 20-2-2006

and the same is in force till today. Several additional facts also had been narrated and it is stated that on the basis of some representation, the 1st respondent issued the impugned proceedings dated 11-12-2006, whereunder the petitioner was directed to stop the construction. The specific sand taken by the petitioner is that the 1st respondent having sanctioned the plan, has no right or authority to issue the impugned order to stop the construction on the basis of the representation made by the 2nd respondent.

5. In the light of the facts and circumstances, inasmuch as, the matter already had been ceased by a competent Civil Court, the 1st respondent has no authority to make such order especially in the light of the approved plan already granted by the 1st respondent. In view of the same, the impugned order is hereby set aside, but, however, inasmuch as it is stated that a representation was made by the 2nd respondent, the 1st respondent to consider the said representation afresh after giving opportunity to the petitioner and also the 2nd respondent and take appropriate decision in this regard in accordance with law.

6. Accordingly, with the above observation, the writ petition is disposed of. No orders as to costs.

(P.S. NARAYANA, J)

Dated 20th December 2006
Mrb/smr